

APPENDIX D

AO 440 (Rev. 10/98) Summons in a Civil Action

United States District Court

~~CENTRAL DISTRICT~~ DISTRICT OF CALIFORNIA

COMPUTER MOTION, INC., a Delaware
corporation

Plaintiff.

V.

INTUITIVE SURGICAL, INC., a Delaware corporation,

Defendant.

SUMMONS IN A CIVIL ACTION

CASE NUMBER: 2100-4988 CBM (RC)

TD: name and address of defendant)

CSC LAWYERS INCORPORATED SERVICE
2730 Gateway Oaks Drive, Suite 100
Sacramento, CA 95833

YOU ARE HEREBY SUMMONED and required to serve upon **PLAINTIFF'S ATTORNEY** (name and address)

Edward F. O'Connor, Esq.
Jan P. Weir, Esq.
STRADLING YOCCA CARLSON & MAUGH
660 Newport Center Drive, Suite 1500
Newport Beach, CA 92660

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

SHERRI R. CARTER

MAY 10 1966

CLERK

DATE

Robert Montgomery

(BY) DEPUTY CLERK

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Attorneys For Plaintiff
COMPUTER MOTION, INC.

FILED

MAY 10

CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION AT SAN

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

COMPUTER MOTION, INC., a
Delaware corporation,

Plaintiff,

vs.

INTUITIVE SURGICAL, INC., a
Delaware corporation,

Defendant.

CASE NO.

CV 00-498 CBM (RC)

COMPLAINT FOR PATENT
INFRINGEMENT

DEMAND FOR JURY TRIAL

Plaintiff, Computer Motion, Inc., alleges as follows
against Defendant, Intuitive Surgical, Inc.:

JURISDICTION AND VENUE

1. This is an action for patent infringement arising
under 35 U.S.C. Sections 271 and 281. This Court has original
and exclusive jurisdiction over this patent infringement action
pursuant to 28 U.S.C. Sections 1331 and 1338(a).

2. This Court has personal jurisdiction over the
Defendant pursuant to Cal.Code.Civ.Proc. section 410.10. On

1 information and belief Defendant, Intuitive Surgical, has
2 continuous and substantial contacts with the State of California
3 and has committed acts of patent infringement alleged in this
4 complaint in this Judicial District.

5 3. Venue is proper in this district pursuant to 28 U.S.C.
6 Sections 1391(b), (c), and 1400(b).

7 **PARTIES**

8 4. Plaintiff, Computer Motion, is and was at all times
9 herein mentioned, a Delaware corporation duly organized and
10 existing under the laws of the State of Delaware with its
11 principal place of business at 130-B Cremona Drive, Goleta,
12 California 93117, within this Judicial District and is the owner
13 of all rights, title and interest by virtue of an assignment of
14 the following United States Patents (referred to collectively as
15 "subject patents") which are directed to a computer assisted
16 robotic surgical system for use in minimally invasive surgery:

17 a. United States Patent No. 5,524,180 entitled
18 "AUTOMATED ENDOSCOPE SYSTEM FOR OPTIMAL POSITIONING" issued
19 on June 4, 1996. (Attached as Exhibit 1 hereto.)

20 b. United States Patent No. 5,878,193 entitled
21 "AUTOMATED ENDOSCOPE SYSTEM FOR OPTIMAL POSITIONING" issued
22 on March 2, 1999. (Attached as Exhibit 2 hereto.)

23 c. United States Patent No. 5,762,458 entitled
24 "METHOD AND APPARATUS FOR PERFORMING MINIMALLY INVASIVE
25 CARDIAC PROCEDURES" issued on June 9, 1998. (Attached as
26 Exhibit 3 hereto.)

27 d. United States Patent No. 6,001,108 entitled
28 "METHOD AND APPARATUS FOR PERFORMING MINIMALLY INVASIVE

1 CARDIAC PROCEDURES" issued on December 14, 1999. (Attached
2 as Exhibit 4 hereto.)

3 e. United States Patent No. 5,815,640 entitled
4 "AUTOMATED ENDOSCOPE SYSTEM FOR OPTIMAL POSITIONING" issued
5 on September 29, 1998. (Attached as Exhibit 5 hereto.)

6 f. United States Patent No. 5,907,664 entitled
7 "AUTOMATED ENDOSCOPE SYSTEM FOR OPTIMAL POSITIONING" issued
8 on May 25, 1999. (Attached as Exhibit 6 hereto.)

9 g. United States Patent No. 5,855,583 entitled
10 "METHOD AND APPARATUS FOR PERFORMING MINIMALLY INVASIVE
11 CARDIAC PROCEDURES" issued on January 5, 1999. (Attached
12 as Exhibit 7 hereto.)

13 5. On information and belief, Intuitive Surgical is a
14 Delaware corporation duly organized and existing under the laws
15 of the State of Delaware, having a place of business at 1340 W.
16 Middlefield Rd., Mountain View, California 94043. Intuitive
17 Surgical is qualified to do business in the State of California,
18 and presently does business in the State of California and does
19 business within this Judicial District.

20 COUNT 1-PATENT INFRINGEMENT

21 6. Intuitive Surgical has made, used, offered for sale,
22 sold and continues to make, use and offer for sale, a computer
23 assisted robotic surgical system under the trade name "da Vinci"
24 that infringes one or more of the claims of the subject patents.

25 7. Intuitive Surgical has and continues to actively
26 induce infringement of the subject patents.

27 8. Intuitive Surgical offers to sell and/or sells
28 components constituting a material part of the invention claimed

1 in the subject patents, knowing the same to be especially made
2 or especially adapted for use in an infringement of the subject
3 patents and not a staple article or commodity of commerce
4 suitable for a substantial noninfringing use.

5 9. Computer Motion has been damaged by these
6 infringements and is entitled to an award of damages to
7 compensate it for these infringements, together with interest
8 and costs. Further, Intuitive Surgical's infringement is likely
9 to continue if not enjoined. This continued infringement will
10 result in additional infringing uses by purchasers of Intuitive
11 Surgical's infringing devices. Computer Motion will be
12 irreparably injured by such further infringement from which
13 Computer Motion will not have an adequate remedy at law.
14 Accordingly, Intuitive Surgical should be enjoined from any
15 further infringement of the subject patents.

16 10. On information and belief, Intuitive Surgical has
17 known about one or more of the subject patents and has neither
18 requested nor received any authorization from Computer Motion to
19 manufacture, make, use, sell or offer to sell the patented
20 invention, but has continued to infringe the patents in willful
21 defiance and disregard of Computer Motion's patent rights.
22 Intuitive Surgical has willfully infringed one or more of the
23 subject patents and the damages awarded to Computer Motion
24 should be trebled pursuant to 35 U.S.C. Section 284.

25 11. Intuitive Surgical's conduct gives rise to an
26 exceptional case under 35 U.S.C. Section 285, and Computer
27 Motion is therefore entitled to an award of its attorneys' fees.

28

1 WHEREFORE, Plaintiff, Computer Motion prays for the
2 following relief:

3 A. A preliminary and final injunction against continued
4 infringement of the subject patents, an award of damages,
5 enhancement of damages and an assessment of interest, costs and
6 Computer Motion's attorneys' fees and for all other relief to
7 which Computer Motion is entitled; and

8 B. That Intuitive Surgical be directed to file with this
9 Court and serve on Computer Motion within thirty days after the
10 service of an injunction, a report in writing and under oath
11 setting forth in detail the manner and form in which Intuitive
12 Surgical has complied with the injunction.

13

Respectively submitted,

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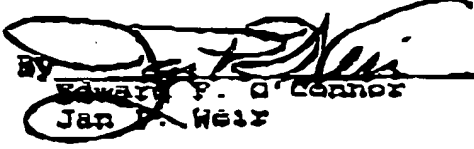
STRADLING YOECA CARLSON & RAUTH

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Dated: 5/10, 2000

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By


Edward P. O'Connor
Jan P. Weir

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Attorneys for Plaintiff
COMPUTER MOTION, INC.

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DEMAND FOR JURY TRIAL

Pursuant to Rule 38 Fed.R.Civ.Proc., Plaintiff Computer
Motion, hereby demands a trial by jury.

Respectively submitted.

STRADLING YOECA CARLSON & RAUTH

Dated: 5/9, 2000

By [Signature]
Edward F. O'Connor
Jan E. Weir

Attorneys for Plaintiff
COMPUTER MOTION, INC.

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